IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7368 OF 2005

Azizullah Hakikullah Khan and another — Applicants

versus

The State of Maharashtra — Respondents

V.Misra i/by M/s.V.Mishra & Co. & Mr.Ganesh R. Iyer for applicants.

Mrs.S.D.Shinde, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 21st November 2005

PC :

1. The applicants herein had filed application for bail being Criminal Application Nos.627 of 2005 and 628 of 2005. The pleas raised were that they were arrested on 20th September 2005 and from 26th September 2005 they are remanded to judicial custody. The FIR was lodged by the complainant on 29th April 2005 for the alleged offence under sections 395, 427 and 134 of IPC.. There appears to be an attempt allegedly made by three persons of robbing the complainant of cash amount.

2. It appears that one Manojkumar Saha was arrested on 30th June 2005 in connection with this very offence/complaint and was detained. Subsequently, Criminal Miscellaneous Application No.457 of 2005 was filed by him and he has been enlarged on bail by the Sessions Court. Raising all these pleas including the similar treatment, the applicants filed aforesaid applications for bail.

3. The Sessions Court has, without adverting to any of these pleas and by a cryptic order, dismissed their bail applications on 27th October 2005. This is how the applicants before me have filed present application.

4. In my view, interest of justice would be served if the applicants are directed to approach the Sessions Court. The grievance made by the applicants' advocate is that the Sessions Court having already passed an order rejecting the bail applications, this Court should pass appropriate orders. In my view, it would be duty of the Sessions Court to apply its mind to all the pleas raised in the present application, which were also raised earlier. Having not considered these

pleas and passed a cryptic order by making general remarks, the Sessions Court has failed in its duty in law.

5. Accordingly following order :-

(i) Present Criminal Application No.7368 of 2005 is allowed to be withdrawn with liberty to the applicants to approach the Sessions Court with fresh applications raising appropriate pleas. On such application/s being made, the learned Sessions Judge is directed to deal with them on merits and in accordance with law uninfluenced by the order passed on 27th October 2005.

(ii) Criminal Application stands disposed of.

(S.C.DHARMADHIKARI, J.)